



POLICE DEPARTMENT

October 17, 2011

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Hai Loon Wang
Tax Registry No. 916888
23 Precinct
Disciplinary Case No. 2010-2249

The above-named member of the Department appeared before me on July 28, 2011, charged with the following:

1. Said Police Officer Hailoon Wang, assigned to the 23rd Precinct, while on-duty, on or about February 26, 2010, inside the 23rd Precinct, in New York County, said Police Officer became loud and argumentative with his superior officer when questioned about his absence from assigned duty on February 25, 2010.¹

P.G. 203-09, Page 1, Paragraph 2 PUBLIC CONTACT-GENERAL
REGULATIONS

2. Said Police Officer Hailoon Wang, assigned to the 23rd Precinct, on or about February 25, 2010, was absent from said assignment without permission or police necessity for approximately eight hours and thirty-five minutes.

P.G. 203-05, Page 1, Paragraph 2 PERFORMANCE ON DUTY GENERAL
REGULATIONS

The Department was represented by Javier Seymore, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

¹ Respondent testified that the proper spelling of his name is Hai Loon Wang.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a 16-year member of the Department, is engaged to be married and has a two-year-old child. He worked in maintenance prior to becoming a police officer. Respondent has been assigned to patrol for the 23 Precinct for almost his entire tenure with the Department, except for a short period working with the Plant Management Unit at One Police Plaza.

Respondent was scheduled to work on February 25, 2010. On February 24, 2010, he became aware that there was going to be a snowstorm the next day. Respondent testified that he called his precinct twice and also reached out to his immediate supervisor regarding the possibility that he might not be able to go to work the next day.

Respondent testified that on February 25, 2010, he was unable to leave his [REDACTED] County home because the "conditions in the weather made it impossible." He stated that "nearly three feet" of snow had fallen by the time he tried to leave for work. He also did not have power in his home. Furthermore, Respondent stated that his fiancée and his four-month-old son were at home, and his fiancée was still recovering from giving birth by Cesarean section.

Respondent testified that during the storm, he and his family attempted to exit their home so they would not be “trapped,” but they “had to retreat back [inside]” because it was “way too dangerous.”

Respondent then called the 23 Precinct to let them know he would not be able to get to work. He spoke to a police officer, who he “later...found out [was named] Cupo.” Cupo informed Respondent that if he wanted an excusal, he should speak to his supervisors, because the desk sergeant would not speak with him for that purpose. Respondent never spoke with anyone at the precinct other than Cupo. Respondent did not go to work on February 25, 2010.

At 11:15 p.m. on February 26, 2010, Respondent arrived at work on time and according to his schedule. After roll call, he was called to speak with two of his supervisors, Lieutenant [Gregory] Lane and Sergeant [Edmund] O'Too.² In the meeting, Respondent testified that Lane gave him “an opportunity to state [his] side of the story, but immediately stopped [him] from talking any further, [and] became angry.” As Lane was yelling and “rudely being in [Respondent's] face physically,” Respondent stated that he yelled back that he had “near perfect attendance” and came to work every day. In fact, between 1995 and 2010 Respondent had “hardly ever” been late for work and had never been penalized for not showing up to work. He had also never been designated Chronic Absent Category A or B sick. Respondent yelled back at Lane for approximately “20, 30 seconds.” Then he was escorted out of the room by O'Too.

Around two minutes later, Respondent went back in the room “to further explain [his] absence.” He apologized to Lane, then Lane apologized to Respondent, then “[they] all shook hands.” Respondent's duty status was not changed or affected by this incident on

² Incorrectly recorded in the trial transcript as “O'Toole.”

that particular night. However, later that week Respondent was transferred to the second platoon and “made to walk a foot beat for...eight weeks.” Respondent had previously worked on the first platoon for over five years.

Respondent testified that he has never received a below-standards evaluation from the Department. Further, since February 25, 2010, he has never been late or failed to appear for a scheduled tour. In addition, he has never had any other disciplinary problems or received any warnings or admonitions from the supervisors at the 23 Precinct since February 2010.

During cross-examination, Respondent stated that he has lived in [REDACTED] County for almost three years. He has dealt with snow before, but “not at the level that it was on February 24 and 25.” Typically, his plan for ensuring that he can make it to work on days when it snows includes staying at a relative’s home in the city. However, the weather was “overpowering” on February 24 and 25, so he could not do this. Respondent testified that his son required care on February 24, so he was not intently watching the weather reports.

Respondent stated that when he called the precinct, he knew in advance that there was a possibility that he would not be given an excusal from work from the desk sergeant. Therefore, in addition to calling the precinct, Respondent called his squad sergeant, but only received his voicemail. He even called the squad sergeant on his cell phone despite instructions not to do so, because he was “desperate” to “tell someone of [his] status.” Respondent did not send his squad sergeant a text message.

After realizing that he was not going to get in contact with anybody to approve his emergency day, Respondent called the precinct one last time. He told Cupo to allow him to speak to the desk sergeant and even “got aggressive” with him over the phone in order

to get him to do so but Cupo did not pass the phone to the desk sergeant. Respondent wanted to "actually explain [what was] going on" to the desk sergeant but was unable to do so.

Respondent testified that the reason he was able to come into work on February 26, 2010 was that a plow went down his street for the first time on that day. Respondent stated that during their meeting, Lane yelled at him and another officer, Police Officer Cruz, asking the two if anybody had authorized them to take the day off. Respondent stated that the normal procedure to follow when taking an emergency day off is as follows: "call the desk and inform them of the circumstances and seek approval from the supervisor. If not, if you are not able to come in, you are supposed to call on an hourly basis and alert them of your status." Respondent admitted that he did not follow through with this requirement; he did not call the office to give them an update on his status on an hourly basis. In fact, he did not make any attempts to call the precinct after the call in which Cupo did not hand the phone to the desk sergeant.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on June 30, 1995. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has pleaded Guilty to becoming loud and argumentative with his superior officer when questioned about his absence from his assigned duty on February 26, 2010. Respondent also pleaded Guilty to being absent from his assignment without permission or police necessity on February 25, 2010 for

approximately eight hours and 35 minutes. Because Respondent pleaded Guilty to the charges, the sole issue before this Court is the issue of penalty. The Assistant Department Advocate asked for a penalty of the forfeiture of 30 vacation days.

Respondent admitted to his Guilt and explained that it was only after Lieutenant Lane yelled at him about being absent that he yelled out that he had near-perfect attendance and comes to work every day. Respondent did not use profanity, threatening or offensive language during the discourse. He also testified that he immediately apologized to Lane for his outburst and they shook hands afterwards.

With respect to his absence from work on February 25, 2010, Respondent stated that aside from this date, he had never failed to appear for a scheduled tour. He explained that on this date, when he opened the door to his [REDACTED] home in [REDACTED] County, he had almost three feet of snow outside. He attempted to leave, but had to retreat because his street was not plowed. In addition, he had a newborn baby at home, no electrical power, and his fiancée was still recovering from a Cesarean section. He attempted to call the desk sergeant but was advised by Police Officer Cupo who answered the command phone that the desk sergeant would not be taking any calls. He also attempted to call his squad sergeant, but only received his voice mail. Respondent, however, did fail to call his command hourly to report his status given his failure to report for duty.

Given Respondent's admission of Guilt, coupled with his good service record, I recommend that he forfeit 20 vacation days.


APPROVED
JUN 19 2012
Raymond W. Kelly
RAYMOND W. KELLY
POLICE COMMISSIONER

Respectfully submitted,
Claudia Daniels DePeyster
Claudia Daniels DePeyster
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

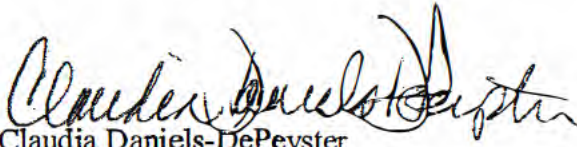
From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER HAI LOON WANG
TAX REGISTRY NO. 916888
DISCIPLINARY CASE NO. 2010-2249

In 2007 and 2008, Respondent received an overall rating of 4.5 "Above Highly Competent" on his annual performance evaluations. In 2009, he received a rating of 4.0 "Highly Competent." Respondent received a Meritorious Police Duty medal and an Excellent Police Duty medal in his career to date.



Respondent has no prior formal disciplinary record.

For your consideration.


Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials